

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

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DEREK SIVO,)
 Petitioner,)
))
 v.) C.A. No. 08-245 S
))
A. T. WALL, Director,)
Rhode Island Department of)
Corrections,)
 Respondent.)
- - - - -

CERTIFICATE OF APPEALABILITY


William E. Smith, United States District Judge.

Incident to its Memorandum and Order (Doc. #26) denying Derek Sivo's petition for a writ of habeas corpus, this Court determined that a certificate of appealability should issue in view of the close question as to whether the denial of his motion for judgment of acquittal based on the insufficiency of the evidence violated his constitutional rights.

Therefore, pursuant to 28 U.S.C. § 2253(c)(2) and Rule 11(a) of the Rules Governing § 2254 Proceedings in the United States District Courts ("2254 Rules"), this Court hereby issues the within Certificate of Appealability as to the following question:

1. Whether the state court's denial of Sivo's motion for judgment of acquittal based on the sufficiency of the evidence violated his constitutional rights.

IT IS SO ORDERED:



William E. Smith
United States District Judge
Date: 6/30/10